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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,729	02/06/2001	Jean-Pierre Panfili	29242-0029	2366

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 07/09/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/776,729

Applicant(s)

PANFILI ET AL.

Examiner

Shay L Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 3,15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examiner needs clarification as to how the channel and the groove fit together. Is the groove on the back of the protuberance and the groove fits in the channel to secure it? Or is the groove the sign on the protuberance and if so how does that lead to the channel?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons (USPN 4481690).

Simmons teaches a scraper comprising a handle (20) having an inner core comprising a longitudinal axis, a transverse axis, a front end, a rear end and first and second opposite surfaces. There is a blade (100) that is securely mounted to the front end of the inner core. The inner core of the handle comprises at least one recess (58) and a lid (60) hingedly mounted to the first surface. The lid is positioned and sized to be folded about an axis parallel to the longitudinal axis of the inner core so as to cover the recess. The front end of the inner core is provided with a

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slit (54), wherein the slit comprises two shoulders (56), which extend parallel to the longitudinal axis of the inner core and defining an insertion slot into which the blade of the scraper is inserted.

5. Claims 1, 2, 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Blank et al. (USPN 4979300).

Blank et al. teaches a scraper comprising a handle (14) having an inner core comprising a longitudinal axis, a transverse axis, a front end, a rear end and first and second opposite surfaces. There is a blade (10) that is securely mounted to the front end of the inner core. The inner core of the handle comprises at least one recess (23) and a lid (18) hingedly mounted to the first surface. The lid is positioned and sized to be folded about an axis parallel to the longitudinal axis of the inner core so as to cover the recess. The front end of the inner core is provided with a slit, wherein the slit comprises two shoulders (12, 13), which extend parallel to the longitudinal axis of the inner core and defining an insertion slot into which the blade of the scraper is inserted. The front end of the inner core is slanted onto the blade in such a manner that a user of the scraper can rest their hand on the front end of the inner core in a substantially flat manner (figure 4). The inner core comprises a first support portion adjacent the front end of the handle on the first side and a second support portion on the second side (figure 1).

6. Claims 1, 2, 5-7 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaye (USPN 4914776).

Kaye teaches a scraper comprising a handle (18) having an inner core comprising a longitudinal axis, a transverse axis, a front end, a rear end and first (22) and second opposite surfaces (24). There is a blade (12) that is securely mounted to the front end of the inner core.

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The inner core of the handle comprises at least one recess and a lid (20) hingedly mounted to the first surface. The lid is positioned and sized to be folded about an axis parallel to the longitudinal axis of the inner core so as to cover the recess. The front end of the inner core is provided with a slit, wherein the slit comprises two shoulders, which extend parallel to the longitudinal axis of the inner core and defining an insertion slot (40) into which the blade of the scraper is inserted. The front end of the inner core is slanted onto the blade in such a manner that a user of the scraper can rest their hand on the front end of the inner core in a substantially flat manner (figure 4). The inner core comprises a first support portion adjacent the front end of the handle on the first side and a second support portion on the second side (38). The front end of the inner core is transversely wider than the rear end (figure 3).

7. Claims 1, 2, 4-7, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Roche et al. (USPN 5996231).

Roche et al. teaches a scraper comprising a handle (20) having an inner core comprising a longitudinal axis, a transverse axis, a front end, a rear end and first (25) and second opposite surfaces (26). There is a blade (200) that is securely mounted to the front end of the inner core. The inner core of the handle comprises at least one recess (49) and a lid (160) hingedly mounted to the first surface. The lid is positioned and sized to be folded about an axis parallel to the longitudinal axis of the inner core so as to cover the recess. The front end of the inner core is provided with a slit, wherein the slit comprises two shoulders (34), which extend parallel to the longitudinal axis of the inner core and defining an insertion slot into which the blade of the scraper is inserted. The inner core is partially covered with a covering material so as to facilitate hand gripping of the drywall knife. The front end of the inner core is slanted onto the blade in

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such a manner that a user of the scraper can rest their hand on the front end of the inner core in a substantially flat manner (figure 1). The inner core comprises a first support portion adjacent the front end of the handle on the first side and a second support portion on the second side. The lid is provided with a protuberance (176) having an outer surface, wherein the outer surface is not covered by the covering material. The front end of the inner core is transversely wider than the rear end (figure 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 4-10, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy et al. (USPN 5850663) in view of Woodnorth et al. (Application number 09/833095).

Hardy et al. teaches a scraper comprising a handle (202) having an inner core comprising a longitudinal axis, a transverse axis, a front end, a rear end and first (216) and second opposite surfaces (217). There is a blade (201) that is securely mounted to the front end of the inner core. The front end of the inner core is provided with a slit, wherein the slit comprises two shoulders which extend parallel to the longitudinal axis of the inner core and defining an insertion slot into which the blade of the scraper is inserted (figure 2f). The front end of the inner core is slanted onto the blade in such a manner that a user of the scraper can rest their hand on the front end of the inner core in a substantially flat manner (figure 2f). The inner core comprises a first support portion adjacent the front end of the handle on the first side (236) and a second support portion

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on the second side (224) for supporting the users thumb and index fingers. There is a hole (figure 2c) extending through the inner core from the first surface to the second surface. The front end of the inner core is transversely wider than the rear end (figure 2c). Hardy et al. teaches all the essential elements of the claimed invention however, the reference fails to teach a hingedly mounted lid attached to the first surface of the inner core and also fails to teach a covering material for covering the handle. Woodnorth et al. teaches paint brush with a handle having a lid hingedly attached to a first surface, wherein the handle is coated in a covering material. When the lid is closed it covers a recess (52) portion of the first surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Woodnorth's hinged handle in place of Hardy's handle to allow for a lightweight handle that is easy to manufacture and also prevents the users hand from slipping while in use (0051-0054).

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons in view of Woodnorth et al.

Simmons teaches all the essential elements of the claimed invention however fails to teach a covering material for the handle. It is well known in the art to use a covering on the handle to prevent any slipping from occurring. Woodnorth et al. is one of the many references that uses a covering material on the handle. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a covering material on the handle.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye in view of Woodnorth et al.

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Kaye teaches all the essential elements of the claimed invention however fails to teach a covering material for the handle. It is well known in the art to use a covering on the handle to prevent any slipping from occurring. Woodnorth et al. is one of the many references that uses a covering material on the handle. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a covering material on the handle.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye, unpatentable over Roche et al., and unpatentable over Hardy et al. in view of Woodnorth et al..

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have a recess comprising two rows each having seven recesses because Applicant had not disclosed that two rows of seven recesses provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the recess as taught by Kaye, Roche et al. or Hardy et al. in view of Woodnorth et al. because both recesses perform the same function of creating a lightweight handle. Therefore, it would have been obvious to one of ordinary skill in the art to modify Kaye, Roche et al. and Hardy et al. in view of Woodnorth et al. to obtain the invention as specified in claim 14.

Allowable Subject Matter

13. Claims 3, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 3 includes the limitation that the blade must have a fishbone edge with toothed edges. The

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toothed edges grip in to the shoulder and prevent the blade from being disconnected from the inner core. The prior art fail to teach attaching a blade to a handle in this manner. The most common way of attaching a blade to a handle is with a fastening means such as a screw.


Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

slb
June 30, 2003


Terrence R. Till
Primary Examiner